

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

J U D G M E N T

CHHOT MAL VS. STATE OF RAJASTHAN
[S.B.CRIMINAL APPEAL NO.219/1988]

S.B. Criminal Appeal No.219/1988 under
Section 374 Cr.P.C. against the Judgment
dated 13.04.1988 in Sessions Case
No.1/85, passed by Sh.Tejpai Singh
Additional District & Sessions Judge,
Jaisalmer.

DATE OF JUDGMENT : 2nd February, 2007.

P R E S E N T

HON'BLE JUSTICE MR. CHATRA RAM JAT

Mr. Swanand Jasmatia for the appellant.
Mr.L.R.Upadhyaya P.P.

BY THE COURT:-

Chhot Mal , the appellant herein was put to
trial in Sessions Case No.1/85 before the learned Additional
Sessions Judge, Jaisalmer who vide judgment dated 13.04.1988
convicted the appellant under Section 324/34 IPC and sentenced
him to suffer fine of Rs.1,500/- and in default to undergo one and
half years rigorous imprisonment.

The prosecution story is woven like this:-

on 29.3.85 when injured complainant Ganpat Lal P.W.3 was going from his office towards his house, at 8.30 P.M., near Girls Higher Secondary School, accused Chhotmal came and caught him and accused Adesh Kumar stabbed knife blow and on shouting Madho Singh P.W.8, Multan Singh ect came there and rescue him. Thereafter he was taken to Jahawar Hospital and admitted for treatment and on examination injuries were found to be grievous. Upon which F.I.R. Ex.P- 1 was lodged which was as F.I.R.No.23/85 police station Jaisalmer under Section 307- 326,341/34 IPC.

After usual investigation, police filed challan against the accused appellant before the trial court. Trial Court recorded statement of P.W.1 Ranmal, P.W.2Umaid Singh, P.W.3 Ganpat Lal, P.W.4 Dr.Chandra Shekar Joshi, P.W.5 Bhanwar Singh, P.W.6 Amarpuri P.W.7 Dalpat Singh, P.W.8 Madho Singh, P.W.9 Chatar Singh, P.W.10 Magsingh, P.W.11Jhabra Ram, P.W.12 Girjashankar and P.W.13 Dr.Dharmendra Sharma. Accused appellant has not produced any defence witness and document.

After hearing the counsel for the parties, trial Court has convicted and sentenced the accused appellant as mentioned hereinabove.

Heard learned counsel for the appellant and learned Public Prosecutor and perused the record of the case.

Learned counsel for the appellant stated that

prosecution story is not reliable as the presence of P.W.8 Madho Singh and Multan Singh at the place of occurrence is highly doubtful and that too in a dark night and thus having no opportunity for these two witnesses to see the occurrence but this important aspect of the case lost sight of the trial court and conviction of the appellant is not sustainable and the appeal deserves to be accepted.

Per contra, learned Public Prosecutor stated that appellant has deposited a fine of Rs.1,500/- vide Receipt No.22 dated 13.04.1988. Learned P.P. Also contended that witness Multan Singh has not been produced and Madho Singh has been examined as P.W.8 and his statement has been treated trustworthy so this appeal has no force and appeal must be dismissed.

Having closely scanned the material on record I am of the view that the evidence produced by the prosecution is reliable and trustworthy for drawing the inference that appellant was guilty and thus the appreciation of evidence by Trial Court cannot be said to be erroneously appreciated for the conviction and sentence of the appellant and the trial court rightly convicted and sentenced the appellant with leniency and thus this appeal deserves to be dismissed.

For these reasons mentioned hereinabove, the appeal

is disallowed and the finding of conviction and sentence rendered by learned Trial Court vide judgment dated 13.04.1988 is maintained. As fine has been deposited so no further compliance is needed. Bail bonds of appellant are discharged.

[CHATRA RAM JAT],J.